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7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-616*

13 **CHARLES SCOTT TONDRO**
13483 Buena Vista Drive
Hesperia, CA 92344

A C C U S A T I O N

14 Registered Nurse License No. 691316

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about October 25, 2006, the Board issued Registered Nurse License No.
23 691316 to Charles Scott Tondro (Respondent). The Registered Nurse License was in full force
24 and effect at all times relevant to the charges brought herein and will expire on February 28,
25 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

....

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

7. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

....

8. Section 2764 provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision

1 imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an
2 expired license at any time within eight (8) years after the expiration.

3 **REGULATORY PROVISION**

4 9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

5 "A conviction or act shall be considered to be substantially related to the qualifications,
6 functions or duties of a registered nurse if to a substantial degree it evidences the present or
7 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
8 safety, or welfare. . . ."

9 **COST RECOVERY**

10 10. Section 125.3 provides that the Board may request the administrative law judge to
11 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
12 sum not to exceed the reasonable costs of the investigation and enforcement of the case, with
13 failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a
14 case settles, recovery of investigation and enforcement costs may be included in a stipulated
15 settlement.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Conviction of a Substantially Related Crime)**

18 11. Respondent is subject to disciplinary action under section 2761, subdivision (f), in
19 conjunction with California Code of Regulations, title 16, section 1444, in that on or about
20 August 29, 2011, Respondent was convicted of a crime which evidences a present or potential
21 unfitness to practice in a manner consistent with the public health, safety, or welfare, as follows:

22 a. On or about August 29, 2011, after pleading guilty, Respondent was convicted of one
23 misdemeanor count of violating Vehicle Code section 23152(a) [drive while under the influence
24 of alcohol/drugs] in the criminal proceeding entitled *The People of the State of California v.*
25 *Charles Scott Tondro* (Super. Ct. Orange County, 2011, No. 11NM08195). Respondent was
26 placed on probation for a period of (3) years and ordered to complete a three-month First-
27 Offender Alcohol Program.

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1 b. The circumstances underlying the conviction are that on or about April 13, 2011,
2 Respondent was arrested for driving under the influence of alcohol after he was involved in a
3 two-car accident in the City of Anaheim. Respondent's blood alcohol content was determined to
4 be 0.186% at the time of his arrest.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Dangerous Use of Alcohol)**

7 12. Respondent is subject to disciplinary action under section 2762, subdivision (b), in
8 that Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to
9 himself and others. Complainant refers to and by this reference incorporates the allegations set
10 forth above in paragraph 11, subdivisions (a) and (b), inclusive, as though set forth fully herein.

11 **DISCIPLINE CONSIDERATIONS**

12 13. To determine the degree of discipline, Complainant alleges that:

13 a. On or about December 1, 2010, in the criminal proceeding entitled *The People of the*
14 *State of California v. Charles Scott Tondro* (Super. Ct. San Bernardino County, 2010, No.
15 MVI1002099), Respondent entered a plea of nolo contendere and sustained an infraction
16 violation for malicious disturbance (Penal Code 415(2)). The circumstances underlying the
17 infraction violation are that on or about June 17, 2010, Respondent was highly intoxicated and
18 resisted arrested after deputies of the San Bernardino Sheriff's Office responded to a domestic
19 disturbance call at Respondent's home. Respondent was later charged with misdemeanor
20 violation of Penal Code 148(a)(1) [resisting arrest]. The charge was ultimately dismissed
21 pursuant to a plea bargain.

22 b. On or about July 24, 2006, in his Application for Licensure by Examination filed with
23 the Board, signed under penalty of perjury, Respondent disclosed a prior criminal conviction, the
24 details of which are as follows:

25 i. On or about July 6, 2006, after pleading guilty, Respondent was convicted of one
26 misdemeanor count of violating Penal Code section 148(a)(1) [resisting arrest] in the criminal
27 proceeding entitled *The People of the State of California v. Charles Scott Tondro* (Super. Ct. San

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1 Bernardino County, 2006, No. MVI047637). The Court placed Respondent on 12 months
2 probation, and ordered him to complete a 12-Week Anger Management Program.

3 ii. The circumstances underlying the conviction are that on or about January 4, 2006,
4 Respondent while intoxicated was involved in a domestic disturbance with his wife. During his
5 arrest, Respondent kicked the arresting officer's face, right side.

6 **PRAYER**

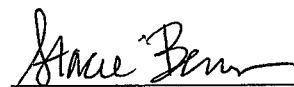
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board issue a decision:

9 1. Revoking or suspending Registered Nurse License No. 691316, issued to Charles
10 Scott Tondro;

11 2. Ordering Charles Scott Tondro to pay the Board the reasonable costs of the
12 investigation and enforcement of this case, pursuant to section 125.3; and

13 3. Taking such other and further action as deemed necessary and proper.
14
15

16 DATED: FEBRUARY 13, 2013

17 *for* 
18 LOUISE R. BAILEY, M.ED., RN
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant
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